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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,284	01/22/2004	Joen-Shen Ma	MR1115-499	3190

4586 7590 03/07/2007
ROSENBERG, KLEIN & LEE
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ELLICOTT CITY, MD 21043

EXAMINER

YIP, WINNIE S

ART UNIT	PAPER NUMBER
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3636

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/761,284

Applicant(s)

MA, JOEN-SHEN

Examiner

Winnie Yip

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This is a first office action.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In this claim, the limitation "the casing" (line 2) lacks a sufficient antecedent basis for this limitation in the claim. Notice, the term "casing" only defined in previous claim 2.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 7,104,270 to Dong.

Dong shows and discloses an umbrella 10) comprising a frame including a central post (25), a runner (24), a crown (23), a plurality of ribs (21) each having an inner end pivotally

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connected to the crown, a plurality of stretchers (22) each being pivotally connected between the runner and one of the respective rib, a canopy () attached and supported by the ribs, and a cooling device including a multi-link nozzle (51) mounted under the crown, the multi-link nozzle (51) being connected to a main hose (54) and at least one passage (55), the at least one passage (55) being disposed along the rib respectively and having a mist outlet (53) and a spout (57) for directing the mist to a desired position below the canopy, whereby the cooling device is mounted to the frame to generate and direct mist to a space under the canopy for cooling the space.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,682,000 to Apple.

Apple shows and discloses an umbrella comprising a frame including a central post (10), a crown (30) mounted to an upper end of the post, a canopy (90) attached and supported by a plurality of ribs (40), a runner (20) movable on the post, a plurality of stretchers (60) pivotally connected between the runner and the ribs respectively, a cover (120) attached and supported by the ribs, and a cooling device including a main supply conduit (70) generating and supplying water flow through a water distribution ring (80) mounted to the crown to a plurality passages (90) which are mounted along the ribs respectively and a nozzle (92) providing a mist outlet for generate and direct mist to a space under the canopy for cooling the space.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-2, and 5-6 rejected under 35 U.S.C. 103(a) as being unpatentable over US

Patent Application Publication No. 2002/0078,985 to Farr in view of US Patent No. 6,682,000 to Apple.

Farr shows and discloses an umbrella 10) comprising a frame including a central post (11), a crown (28) mounted to an upper end of the post, a canopy (14) attached and supported by a plurality of ribs (see Fig. 1), and a cooling device mounted to the frame to generate and direct mist to a space under the canopy for cooling the space, wherein the cooling device including a casing/housing (16) removably mounted to the central post of the frame, the casing having an interior space in which a water tank (20) disposed therein to contain an amount of water, the water tank (20) including a water inlet (21) covered by a removable cap (22), a solar cell (28) connected to batteries (19) located in a battery compartment (18) via a wire (27) and control switches (26) to provide an electrical driven device to drive a pump (23) to form a mist generator for generation of mist, one passage (29) formed between the mist generator and a mist outlet, the mist outlet including a nozzle (31) having holes (32) for directing the mist to a desired position below the canopy (14). Although Farr does not specifically define the frame including a runner movably mounted along the central post and stretchers pivotally connected between the runner and the ribs, however, Apple teaches an umbrella comprising a frame having a central post (10), a crown (3) mounted on top of the post, a plurality of ribs (40) pivotally connected to the crown, a runner (20) movably connected to the post, and a plurality of stretcher pivotally connected between the runner and the ribs respectively. It is common engineering

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practice to provide an umbrella having a runner and stretches as known in the art for supporting the ribs and the canopy of the frame, since applicant does not specifically define the umbrella frame having a runner and stretches solve any stated problems. Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in art to modify the umbrella of Farr having a runner and stretchers being connected to the post and the ribs as taught by Apple for providing a support to ribs in an opening and closing as know in the art.

8. Claims 1-2, and 4-5 rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,612,713 to Kuelbs in view of US Patent No. 6,682,000 to Apple.

Kuelbs shows and discloses an umbrella (11) comprising a frame (26) including a central post (15 or 719), a crown (715) mounted to an upper end of the post, a plurality of ribs (19, 21, 23, 25 or 401) pivotally connected to the crown at an inner ends, a canopy (13) attached and supported by the ribs, a runner (27) movable on the post, and a cooling device mounted to the frame to generate and direct mist to a space under the canopy for cooling the space, wherein the cooling device (see Fig. 8) includes a casing/housing (931) mounted to the central post (919) of the frame, the casing having an interior space in which a water tank (925) disposed therein to contain an amount of water, a pump (927) being generated by an electrically driven device to provide a mist generator to receive water from the water tank for generation of mist to a mist outlet through passages (929), a plurality of the passages (411) each disposed on the rib respectively, at least one mist outlet comprising a nozzle (425) disposed along one respective rib for generating and directing mist to a space under the canopy for cooling the space, wherein the pump (927) is driven by an electrically driven device which comprises power cord (261)

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extending outside of the casing for selectively connection with an external power source.

Although Kuelbs does not specifically define the frame including a runner movably mounted along the central post and stretchers pivotally connected between the runner and the ribs, however, Apple teaches an umbrella comprising a frame having a central post (10), a crown (3) mounted on top of the post, a plurality of ribs (40) pivotally connected to the crown, a runner (20) movably connected to the post, and a plurality of stretcher pivotally connected between the runner and the ribs respectively. It is common engineering practice to provide an umbrella having a runner and stretches as known in the art for supporting the ribs and the canopy of the frame, since applicant does not specifically define the umbrella frame having a runner and stretches solve any stated problems. Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in art to modify the umbrella of Kuelbs having a runner and stretchers being connected to the post and the ribs as taught by Apple for providing a support to ribs in an opening and closing as know in the art.

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Farr '985 or Kuelbs '713 in view of Apple '000 as applied to claims 1-2 above, and further in view of US Patent No. 4,644,790 to Mizoguchi.

The claims are considered to meet by Farr or Kuelbs modified by Apple as explained and applied above rejections except that either of Farr or Kuelbs or Apple do not specifically define the water tank of the casing having a water level indicator for visual inspection of the amount of water inside of the water tank as claimed. Mizoguchi teaches liquid containing device comprising a casing (1) having a water storing tank (5) having a transparent portion (10') with

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level numbers (25) to provide a water level indicator be observed outside the casing for visual inspection of the amount of the water inside of the water tank. Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the cooling device of Farr or Kuelbs modified by Apple having the water tank of the casing having a transparent portion to provide water level indicator on the casing as taught by Mizoquchi for allowing the level of the water inside of the water tank can be observed outside of the casing.

Citations

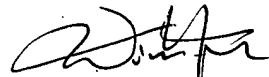
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Molnar, IV '866, Louis '793, Okronick et al. '759, Palmer et al. '629, Sager '433, Kelley '107 teach various umbrellas having a cooling device mounted to the frame of the umbrella as similar to the claimed invention. Mahlich et al. '422 teaches a misting device comprising a water tank having a water level indicator for observation outside of the water tank as similar to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 571-272-6870. The examiner can normally be reached on M-F (9:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Winnie Yip
Primary Examiner
Art Unit 3636

wsy
March 4, 2007